IN THE HIGH COURT OF UTTARANCHAL

AT NAINITAL

Writ Petition No. 744 of 2005 (S/S)

Devi Dutt
S/o Govind Ballabh
R/o Village Gosani (Old Gaon)
Post Khetikhan
District – Champawat …Petitioner

Versus

1. State of Uttaranchal
through the Collector, Champawat

2. District Basic Education Officer, Champawat

3. Assistant Basic Education Officer,
Paatee, Champawat

4. Finance and Account Officer,
Basic Education Pithoragarh

4. Committee of Management
Shiksha Raj Junior High School,
Ramnagar, Sultanpur,
(Kunhari), Haridwar …Respondents

Sri Prabhakar Joshi, learned counsel for the petitioner.
Sri Paresh Tripathi learned Standing Counsel for the respondents.

Hon'ble B.C. Kandpal, J

By way of this Writ Petition, a direction in the nature of mandamus has been sought for directing the respondents to pay the salary of the petitioner for which he has worked in the Department on the post of Paricharak after his retirement.

Brief facts of the case are that the petitioner was appointed as a class IV employee on 15.03.1971 in the Purva Madhyamik Vidhyalaya Pokhari Vikash Khand Paatee, Champawat. After completing 16 years of satisfactory service, he was given selection grade and he is working on the post of Paricharak since 11.05.2004. The petitioner was retired on 12.05.2004.

The writ petition further reveals that the District Basic Education Officer vide its letter dated 30.07.2004 demanded back the salary paid to the petitioner amounting to Rs. 60,558/- by the conditional order that if this amount is not paid, the pension, gratuity and provident fund shall not be demanded to the petitioner. Therefore, the petitioner under compulsion deposited the said amount in the treasury.

The petitioner further averred that he has submitted his option for service upto the age of 58 years but no intimation or information was given to him regarding the sanction of his option. It has also been averred that after the age of 58 years the respondents had taken work form the petitioner w.e.f. 01.01.2003 to 11.05.2004 and for this period he has not been paid salary as such the petitioner is entitle to get the salary for the period he had worked. The petitioner vide notice dated 13.12.2004 demanded the salary for the period January, 2003 to 11.05.2004. It has also been stated in the writ petition that letter issued by the Finance and Account Officer Basic Education, Pithoragarh reveals that the work is taken from the petitioner by the Assistant Basic Officer and District Basic Education Officer, therefore, the liability of the payment rests on these officers. As the salary of the petitioner has not been paid by the respondents, hence he has filed the writ petition.

Heard learned counsel for the parties and perused the record.

In case, if the averment made by the petitioner appears to be true that he had worked as Paricharak after he attained the age of 58 years and the respondents allowed him work as Paricharak but even after taking the work from him he was not given any salary for the work rendered by him. Then I think it would be just and proper that the respondent no. 2 shall take up the matter of the petitioner for positive and sympathetic consideration.

I direct that the petitioner shall move the representation giving the entire details and the document pertaining to the matter in issue within 15 days and the respondent nos. 2 shall decide the representation within a period of 30 days after the representation is placed before him by passing speaking and reasoned order.

With the aforesaid observations, the writ petition is disposed of finally.

(B.C. Kandpal, J.)

14th June, 2005
Shiv